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ARIZONA CORPORATION COMI

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CASE NO. S-03497A-09-0242

SBA App # 1004739

In re Merrill Lynch, Pierce, Fenner & Smith, Incorporated

Arizona Corporation Commission
DOCKETED
DOCKET CONTROL

MOTION TO APPEAR
PRO HAC VICE

JUN 11 2009

DOCKETED BY

Merrill Lynch, Pierce, Fenner & Smith, Incorporated ("Merrill Lynch"), through

undersigned counsel Laura M. Kam of DLA Piper LLP (US), respectfully moves the Arizona Corporation Commission for the admission of Timothy P. Burke of Bingham McCutchen LLP to participate pro hac vice as co-counsel for Merrill Lynch in the above-entitled action. Mr. Burke was temporarily admitted pro hac vice by the Commission on June 10, 2009. The Procedural Order Granting Temporary Admission *Pro Hac Vice* directed Merrill Lynch to complete Mr. Burke's pro hac vice application procedures within forty-five (45) days. Merrill Lynch counsel obtained the Notice of Receipt of Complete Application for Mr. Burke from the Arizona State Bar today. Accordingly, Merrill Lynch counsel hereby moves for Mr. Burke's permanent admission pro hac vice in this matter. In support of this motion, the undersigned states:

1. Timothy P. Burke is a member in good standing of the Massachusetts Bar and has been licensed to practice in the Commonwealth of Massachusetts since 1992. Mr. Burke is also an active member in good standing of the New York State Bar and has been licensed to practice in the State of New York since 1992.

2. Timothy P. Burke is not now, nor has he ever been, under suspension or subject to any other disciplinary action with respect to the practice of law.

Originals of Mr. Burke's Notice of Receipt of Complete Application, Nonresident Attorney Pro Hac Vice Application, and certificates of good standing from the Massachusetts Supreme Judicial Court and the Appellate Division of the Supreme Court of the State of New York, Second Judicial Department are attached hereto as Exhibit A.

1 RESPECTFULLY SUBMITTED this 11th day of June, 2009.

2 DLA PIPER LLP (US)

3 By 

4 Laura M. Kam (AZ Bar No. 025918)

5 laura.kam@dlapiper.com

6 DLA PIPER LLP (US)

7 2525 East Camelback Road, Suite 1000
8 Phoenix, AZ 85016-4232

9 *Attorneys for Merrill Lynch, Pierce, Fenner
& Smith, Inc.*

10 **ORIGINAL** and 13 copies of the
11 foregoing filed this 11th day of
12 June, 2009 with:

13 Arizona Corporation Commission
14 1200 West Washington Avenue
Phoenix, AZ 85007-2996

15 **COPY** of the foregoing mailed
16 this 11th day of June, 2009 to:

17 Timothy P. Burke
18 Bingham McCutchen LLP
One Federal Street
Boston, MA 02110-1726

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20 _____
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EXHIBIT A

Arizona Corporation Commission

In the matter of)
)
Merrill Lynch Pierce)
Fenner & Smith Inc)
Plaintiff,)
)
)

CASE # S-03497A

SBA App # 1004739

NOTICE OF RECEIPT OF
COMPLETE APPLICATION

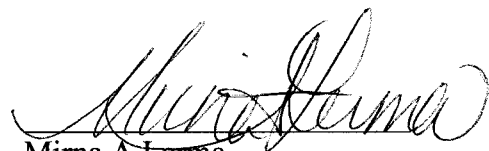
NOTICE IS HEREBY given by THE STATE BAR OF ARIZONA that it has
received the verified application and fee from Timothy Burke.

In addition to this application, applicant has made the following applications to appear
pro hac vice, pursuant to Rule38 (a), within the previous three (3) years:

Title of Matter	Court/Agency	Date	Granted?	
			<input type="checkbox"/>	<input type="checkbox"/>
			Yes	No
			<input type="checkbox"/>	<input type="checkbox"/>
			Yes	No

Exhibit A, the original verified application and Exhibit B, the original Certificate(s) of
Good Standing are attached hereto.

DATED this 10th day of June 2009


Mirna A Lerna
Resource Center
State Bar of Arizona

Original Mailed on this 10th day of June 2009 to:

Ms Laura Kam
DLA Piper LLP
2525 E Camelback Rd Suite 1000
Phoenix, AZ 85016-4232



Attn: Pro Hac Vice Dept
PO Box 53099
Phoenix, AZ 85072-3099
Phone: 602-340-7239

For Official Use Only

App#

Bar Number#

1004739

P171439

Application for Appearance Pro Hac Vice

PART I: Applicant Information

Name of Applicant: Timothy P. Burke

Firm/Company Name: Bingham McCutchen LLP

Office Address: One Federal Street, Boston, MA 02110

Telephone: 617-951-8620 Fax: 617-951-8736 Email Address: timothy.burke@bingham.com

Residence Address: _____

Title of cause or case where applicant seeks to appear: In re Merrill Lynch Pierce, Fenner & Smith Incorporated

Docket Number: S-03497A-09-0242

Court, Board, or Administrative Agency: Arizona Corporation Commission

Party on whose behalf applicant seeks to appear: Merrill Lynch Pierce, Fenner & Smith Incorporated

Pursuant to Arizona Supreme Court Rule 38(i)(3), the applicant shall complete the information below:

Courts to Which Applicant Has Been Admitted:

(Attach additional pages if needed)

Supreme Judicial Court of Massachusetts

Date of Admission:

2/11/1992

Bar Number:

558893

New York Appellate Division, Second Department

1/1/1992

2463669

☒ Applicant is a member in good standing in such courts.

☒ Applicant is not currently disbarred or suspended in any court.

Applicant ☐ is / ☒ is not (select one) currently subject to any pending disciplinary proceeding or investigation by any court, agency or organization authorized to discipline attorneys at law.

In the preceding three (3) years, applicant has filed applications to appear as counsel under AZ ST S.Ct., Rule 38(a) in the following:

Title of Matter:

Docket #:

Court or Agency:

App Granted? (Y/N)

This case or cause ☐ is / ☒ is not (select one) a related or consolidated matter for which applicant has previously applied to appear pro hac vice in Arizona. If this matter is a related or consolidated with any previous application, Applicant certifies that he/she will review and comply with appropriate rules of procedure as required in the underlying cause.

If applicable, please provide related or consolidated matter application or docket# _____

PART II: Local Counsel Information

Name of Arizona Local Counsel: Laura M. Kam

State Bar of Arizona Number: 025918

Address: DLA Piper LLP; 2525 East Camelback Road; Suite 1000; Phoenix, Arizona 85016-4232

Telephone: (480) 606-5118 Fax: (480) 606-5518 Email Address: laura.kam@dlapiper.com

☒ Local Counsel is a member in good standing.

☒ Local Counsel associating with a nonresident attorney in a particular cause shall accept joint responsibility with the nonresident attorney to the client, to opposing parties and counsel, and to court, board, or administrative agency in that particular cause.

PART III: Parties and Certification

Name(s) of each party in this cause and name and address of all counsel of record:

Party:	Counsel of Record:	Address:
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

☒ Applicant is including with this application a nonrefundable application fee, payable to the State Bar of Arizona, in the amount of \$460.00. Fifteen percent of the non-refundable application fee paid pursuant to this section shall be deposited into a civil legal services fund to be distributed by the Arizona Foundation for Legal Services and Education entirely to approved legal services organizations, as that term is defined in subparagraph (f) of this rule.

☒ Applicant is furnishing a certificate from the state bar or from the clerk of the highest admitting court of each state, territory, or insular possession of the United States in which the nonresident attorney has been admitted to practice law certifying the nonresident attorney's date of admission to such jurisdiction and the current status of the nonresident attorney's membership or eligibility to practice therein. The certificate furnished shall be no more than forty-five (45) days old.

Applicant certifies the following:

1. Applicant shall be subject to the jurisdiction of the courts and agencies of the State of Arizona and to the State Bar of Arizona with respect to the law of this state governing the conduct of attorneys to the same extent as an active member of the State Bar of Arizona, as provided in Rule 46(b) Rules of the Supreme Court.
2. Applicant will review and comply with appropriate rules of procedure as required in the underlying cause.
3. Applicant understands and shall comply with the standards of conduct required of members of the State Bar of Arizona.

Verification

STATE OF _____)
County of _____) ss.

I, Mich, swear that all statements in the application are true, correct and complete to the best of my knowledge and belief.

Dated: 6-1-09 Applicant's Signature: Timothy P. Burke

SUBSCRIBED AND SWORN TO before me this 1st day of June, 2009, by

Timothy P. Burke
Name of Applicant

 MICHELE J. SMITH
Notary Public
Commonwealth of Massachusetts
My Commission Expires
March 2, 2012
Michele J. Smith
Notary Public

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

BE IT REMEMBERED, that at the Supreme Judicial Court holden at Boston within and for said County of Suffolk, on the eleventh day of February A.D. **1992** , said Court being the highest Court of Record in said Commonwealth:

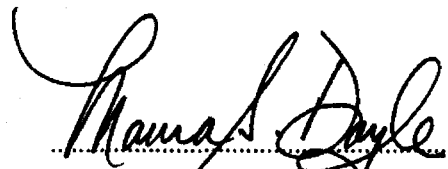
Timothy P. Burke

being found duly qualified in that behalf, and having taken and subscribed the oaths required by law, was admitted to practice as an Attorney, and, by virtue thereof, as a Counsellor at Law, in any of the Courts of the said Commonwealth: that said Attorney is at present a member of the Bar, and is in good standing according to the records of this Court*.

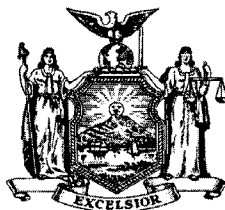
In testimony whereof, I have hereunto set my hand and affixed the seal of said Court, this **third** day of **June**

in the year of our Lord **two thousand and nine**.




MAURA S. DOYLE, Clerk

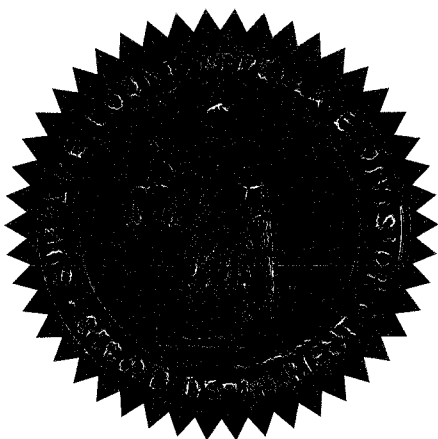
* Records of private discipline, if any, such as a private reprimand imposed by the Board of Bar Overseers or by any court, are not covered by this certification.



**Appellate Division of the Supreme Court
of the State of New York
Second Judicial Department**

I, James Edward Pelzer, Clerk of the Appellate Division of the Supreme Court of the State of New York, Second Judicial Department, do hereby certify that Timothy P. Burke was duly licensed and admitted to practice as an Attorney and Counselor-at-Law in all the courts of the State, according to the laws of the State and the court rules and orders, on the 4th day of March 1992, has duly taken and subscribed the oath of office prescribed by law, has been enrolled in the Roll of Attorneys and Counselors-at-Law on file in my office, has duly registered with the administrative office of the courts, and according to the records of this court is in good standing as an Attorney and Counselor-at-Law.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said Appellate Division on June 02, 2009.



James Edward Pelzer

Clerk of the Court